

THE FRESH START

A Periodic Newsletter from the United States Trustee Offices for Region 11-Wisconsin and the Northern District of Illinois

SUMMER 2000

Meet Ira Bodenstein, United States Trustee for Region 11

Mr. Bodenstein has been the United States Trustee (UST) for Region 11 for 2 years, and welcomes readers of our first newsletter with the following words:

*Welcome to the inaugural edition of **The Fresh Start**. The purpose of this newsletter is to enhance the communication channels between the bankruptcy community and the Office of the United States Trustee. As regulators we are charged with monitoring cases filed under title 11 to ensure compliance with the appropriate provisions of the Code and Rules. As watchdogs of the bankruptcy system we, by necessity, become involved on a daily basis with debtors, creditors, their attorneys and both chapters 7 and 13 trustees. Open lines of communication are essential to the achievement of our mission. To help the bankruptcy community better understand what our offices do, the pages of our newsletter will contain news from the field, announcements of new initiatives, special projects and programs we are working on, and notable legal decisions on issues litigated by our attorneys. The newsletter is a work in progress. I invite you to suggest additional information you would find interesting or helpful. As participants in the bankruptcy system we should strive to work together to ensure that all cases filed under title 11 are administered in a timely and efficient manner. I hope that in some small measure, this newsletter will help us better achieve that goal.*

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Region 11 Geography

The United States Trustee's Office (USTO) for Region 11 covers the Northern District of Illinois and the entire state of Wisconsin, with the Regional Office located in Chicago and field offices in Milwaukee and Madison.

News from the Chicago Office

On March 13, 2000, the Annual Trustee Seminar for chapter 7 trustees was held at the Midland Hotel. Panel discussions and presentations were held on diverse topics. The *Using the Internet* panel discussion took an in-depth look at on-line auction services, the ramifications of their use, and legal and practical issues. On May 2, 2000, Ira Bodenstein participated in a training session in U.S. bankruptcy law for a delegation from the People's Republic of China. Presenters included bankruptcy judges, chapter 11 practitioners, accountants and turnaround specialists. The delegation included officials from the Beijing Foreign Economic and

Trade Commission, the Beijing Investment Service Center and Beijing TainZhong Law Firm attorneys.

During the month of June teams composed of USTO personnel and panel trustees spoke at the City of Chicago Regional Aging Centers. On June 25, 2000, Ira Bodenstein, along with chapter 7 trustees Richard Fogel and Andrew Maxwell spoke at the Northeast (Levy) Regional Senior Center about credit and credit repair issues. Mr. Bodenstein emphasized senior citizens should become savvy consumers by the wise use of credit. Credit cards are an important resource for seniors because it gives them the ability to make purchases with the safety of not carrying cash. Mr. Maxwell and Mr. Fogel explained chapters 13 and 7 to the audience. This was one in a series of community outreach projects the USTO is presenting in conjunction with the Chicago Bar Association on consumer issues. Others who participated at the other Regional Aging Centers were the Assistant U.S. Trustee (AUST) Sandra Taliani Rasnak, and staff attorneys Denise De Laurent and Stephen Wolfe. Chapter 7 trustees who assisted with presentations included Norman Newman, John Gierum, Joseph Cohen and Joseph Baldi.

News from the Milwaukee Office

On June 8, 2000, AUST John R. Byrnes received the Milwaukee Bar Association's Distinguished Service Award because of his leadership in coordinating pro bono legal representation for clients of a Milwaukee-area bankruptcy attorney who closed his office without providing services for which he was retained. During the summer of 1999, Mr. Byrnes received multiple complaints that debtors' counsel John Asher, doing business as Christian Legal Services and Christian Law Center of Wisconsin, S.C., had failed to appear at required bankruptcy hearings and failed to timely file bankruptcy petitions for clients who had retained his services. After meeting with Asher and further investigating the situation, Mr. Byrnes determined that Asher had closed Christian Law Center without providing legal services to clients who had paid him. Approximately 25 lawyers, primarily from southeastern Wisconsin, participated in the pro bono program established by Mr. Byrnes and the Bankruptcy Section. Their assistance allowed the debtors to obtain bankruptcy relief, but to also significantly reduce the amount of claims that would otherwise have been made upon the State Bar Client Security fund, which reimburses clients for amounts lost as a result of misconduct by their attorneys.

Recent Region 11 Prosecutions

On January 18, 2000, Hermilyn Holmes Strong pleaded guilty during a trial in Chicago to three counts of a 19-count superseding indictment. She admitted using an alias and making other false statements to the Department of Housing and Urban Development (HUD) to obtain a HUD loan; using a false Social Security Number (SSN) to obtain a HUD loan; and committing bankruptcy fraud by using aliases and filing false bankruptcy petitions as part of a scheme to defraud HUD, other mortgage holders, creditors, and chapter 13 trustees. Strong filed 21 bankruptcies solely to stop foreclosure, never disclosing the properties she held or the bankruptcies she filed under other names. AUST Sandra Rasnak worked with prosecutors and special agents from three federal agencies during the investigation and trial. Chicago USTO Trial Attorney Kathryn Gleason testified as a fact and expert witness.

On May 4, 2000, Kevin Holliday was sentenced to 5 years' probation and restitution of \$50,162 for his role in the Strong case, after entering a guilty plea on September 14, 1999.

On February 23, 2000, Scott Holmberg was sentenced to a prison term of 61 months, and 5 years supervision following release from prison. Holmberg pleaded guilty to two counts of a superseding indictment which included charges of concealment, tax fraud and bank fraud. The Chicago USTO referred the case to the United States Attorney's Office for prosecution.

On April 28, 2000, Debra A. Pappas, a former commodities trader, pleaded guilty in the Northern District of Illinois to bankruptcy fraud involving false statements, concealment of assets, and fraudulently incurring credit card debt with no intent to repay. In 1992 and 1993, Pappas transferred assets, including an interest in a limited partnership, to family members. In her July 1993 bankruptcy filing she failed to list the asset transfers, understated past income, and undervalued assets that she disclosed. With respect to credit card fraud, Pappas knew merchants could process charges under \$50 without checking with the card issuer. In three weeks, she incurred approximately \$8,000 in credit card charges by making around 200 purchases of under \$50. The USTO helped develop the criminal referral, and obtained a revocation of Pappas' discharge.

On June 2, 2000, Vincent M. Gramarossa was sentenced to 30 months imprisonment, three years' supervised release, and restitution of \$257,903. On October 22, 1999, a jury found Gramarossa guilty on all ten counts of a superseding indictment charging false statements. AUST Sandra Rasnak testified as an expert witness.

On July 19, 2000, John DeBeck was sentenced in the Eastern District of Wisconsin to two years imprisonment based upon his guilty plea to four counts which included bank fraud, credit card fraud, bankruptcy fraud and bankruptcy perjury. This case was referred to the U.S. Attorney by the Milwaukee USTO. DeBeck had originally filed a chapter 11 on behalf of the North American Youth Basketball Association, his non-profit corporation which organized amateur basketball tournaments nationwide. DeBeck provided false financial statements on behalf of the corporation to several banks on a pre-petition basis. Also, DeBeck had falsely obtained credit cards for fictitious employees to fraudulently obtain cash advances for the corporation. At the chapter 11 Section 341 meeting, DeBeck admitted defrauding the banks by filing false financial records. After the immediate conversion of the case to chapter 7, DeBeck ultimately admitted to concealing assets and lying at the Section 341 meeting, when he stated that his schedules identified all of the corporation's assets. The total loss to creditors exceeded \$800,000.

We would like to remind everyone that Chicago's AUST Sandra Rasnak is the National Bankruptcy Fraud Coordinator for the United States Trustee Program, and should be contacted at (312) 886-5785 about bankruptcy fraud questions, cases or concerns.

Recent Court Decisions

On February 23, 2000, the U.S. Bankruptcy Court for the Eastern District of Wisconsin found that unpaid pre-petition legal services rendered in connection with a bankruptcy filing constitute a dischargeable debt under Bankruptcy Code Section 727(b) (*In re Nieves*, Bankr. E.D. Wis., No. 99-26765-JES, 2/23/00), aligning itself with the majority view set forth in *Hessinger & Associates*, 192 B.R. 211 (N.D. Cal. 1996). The court further found that the U.S. Trustee had standing to raise the issue of Dischargeability for pre-petition legal services both from the public interest in enforcing bankruptcy laws and from the "explicit grant of authority" in Section 307. The 12-page ruling ordered a fast-growing Chicago-based bankruptcy firm to return funds it received for pre-petition work that the firm did on behalf of a no-money-down bankruptcy client by stating "The great weight of authority holds that a chapter 7 discharge covers attorney fees owed by a debtor for services involved in preparation for filing the bankruptcy case, notwithstanding any terms of the agreement between debtor's attorney and the debtor to the contrary." Judge Shapiro accepted the USTO's assertion that legal bills incurred before a bankruptcy filing should be discharged, just like any other pre-bankruptcy debt, and ruled that those pre-petition fees owed to the firm of Macey & Chern, which does business as Legal Helpers, did not have to be paid. The *Nieves* chapter 7 bankruptcy involved a Milwaukee couple who signed an agreement which outlined specific payment terms and stated the debtors would pay the law firm for all fees they had agreed to pay. The U.S. Trustee will issue guidelines soon in conjunction with this decision.

Kepler v. Galeles (In re Galeles), Case 00-C-0145-S (W.D. Wis. May 1, 2000). The debtor's mother received a 20-year annuity in settlement of a medical malpractice claim. The mother died, and one-half of the annuity (\$2,596 per month) became payable to the debtor. The debtor claimed the payments exempt under Section 522(d)(10)(E). That section exempts "the debtor's right to receive ...a payment under a stock bonus, pension, profitsharing, annuity, or similar plan or contract on account of illness, disability, death, age or length of service ..." The trustee objected, arguing that the exemption was intended to apply to payments to the debtor which arise from contributions of the debtor's earnings, or are substitutions for lost future earnings, such as pension or disability payments. Here, the debtor did not make any contribution or suffer any loss of earnings, but rather inherited the payments from his mother. The bankruptcy court allowed the exemption under the plain meaning rule, finding that the payments were "under an annuity" and were received by the debtor "on account of ... death" because the debtor was awarded the payments when his mother died. On appeal, the district court examined the intent of the exemption statute, and concluded it only applies to annuity payments which arise from the debtor's contributions, or are substitutes for future earnings. The bankruptcy court's construction would create an unlimited exemption for annuity payments which could be abused by debtors. Since the debtor did not contribute to the annuity, and the payments did not replace the debtor's lost earnings, the payments are more appropriately characterized as an inheritance, subject to the normal exemption limitations.

In *Raleigh v. Illinois Department of Revenue*, U.S. ___, 120 S.Ct. 1951 (2000), the U.S. Supreme Court tackled the following issue: *Should tax claims in bankruptcy be given the advantage of placing the burden of proof on the objecting trustee, in contract to the rule applicable to the claims of other creditors?* In a May 30, 2000 decision written by Justice Souter, the Supreme Court held that the burden

of proof on a tax claim rests with the trustee, just as it would have been on the taxpayer had the proceedings taken place outside of bankruptcy, thus affirming a 7th Circuit ruling. While William J. Stoecker was president of Chandler Enterprises, Inc., an Illinois company, Chandler purchased a plane out of state and moved it to Illinois. By the time the Illinois Department of Revenue discovered that the state "use tax" was unpaid, Chandler was defunct, and Stoecker was in bankruptcy. Illinois issued a Notice of Tax Liability against Chandler, and a Notice of Penalty Liability against Stoecker. Illinois also filed a bankruptcy claim. The fact that there was no affirmative proof that Stoecker was responsible for or willfully evaded the payment was not dispositive. Illinois law shifts the burden of proof, both on production and persuasion, to the responsible officer once a Notice of Penalty Liability is issued. Thus, the burden of proof was ultimately on taxpayer Stoecker, or, in this case, the chapter 7 trustee, Thomas E. Raleigh.

Bankruptcy Code Section 1930(a)(6), which authorizes the United States Trustee to collect quarterly fees from parties that file for chapter 11 bankruptcy protection, must be read as applying to all disbursements, including those made in the ordinary course of business, the U.S. District Court for the Western District of Wisconsin held June 5, 2000 (*In Re United States Trustee v. Wintersilks, Inc.*, 00-C-0106-C, Crabb, B., 6/5/00). The question raised on this appeal brought by the U.S. Trustee was whether the term "disbursement" applied to all payments made by a reorganized debtor after a chapter 11 plan has been confirmed but before the case has been closed, or whether, as the bankruptcy court had held (*In re Wintersilks, Inc.*, 243 B.R. 351 (Bankr. W.D. Wis. 12/23/99)), the term applied only to post-confirmation payments made pursuant to the plan of reorganization. In 1998 the debtor, Wintersilks, Inc., filed for chapter 11 bankruptcy. On February 22, 1999, the plan of reorganization was confirmed, and on September 21, 1999, a hearing was held regarding the debtor's Application for Final Decree and Order of Substantial Consummation. The U.S. Trustee objected on the ground that the debtor failed to pay quarterly fees due for the third quarter of 1999 and underpaid fees for the second quarter of 1999. The U.S. Trustee's motion to alter and amend the bankruptcy judge's decision was denied orally on January 18, 2000. On January 19, 2000 the bankruptcy court entered a final decree and certificate of substantial consummation. On January 27, 2000, the U.S. Trustee appealed the December 23, 1999 and January 18, 2000 rulings. In 1996, in an effort to raise more revenue and offset the cost of monitoring chapter 11 proceedings, Congress amended Section 1930(a)(6) by deleting confirmation of a plan as an event that ended the debtor's obligation for fees. The district court noted that most bankruptcy courts, all but one district court and the one court of appeals faced with this question have read the statute as representing Congress's intent to make the fee provisions applicable to all payments after confirmation. The district court further noted that nothing in the statute's language or context, or legislative history suggested that Congress intended that the statute's reach be limited to disbursements made pursuant to a plan.

To the same effect is the recent decision by the district court in *United States Trustee v. Pettibone Corp.*, B.R., 2000 WL 1060829 (N.D.Ill. 2000). The United States Trustee had moved to alter or amend an order denying his motion for payment of post-confirmation fees due from the reorganized chapter 11 debtor. The bankruptcy court, the Honorable Jack B. Schmetterer presiding, allowed the motion in part and denied it in part, holding that fees must be based on disbursements under the confirmed plan rather than upon all of the reorganized debtor's ordinary business expenditures. The bankruptcy court further held that the reorganized debtor, rather than the plan trustee, was responsible for payment of quarterly

fees. *In re Pettibone Corp.*, 244 B.R. 906 (Bankr.N.D.Ill. 2000). The United States Trustee appealed the bankruptcy court's holding that disbursements for purposes of calculating quarterly fees are limited to payments made under the plan. The debtor appealed the bankruptcy court's holding that it was responsible for payment of the fees, rather than the plan trustee. On appeal the district court, the Honorable James F. Holderman presiding, reversed in part and affirmed in part, holding that: (1) statutory post-confirmation quarterly fees payable to the United States Trustee are to be based upon the total of *all* disbursements made by the reorganized chapter 11 debtor, including any ordinary operating expenses, and (2) the reorganized chapter 11 debtor was responsible for any post-confirmation fees due and owing.

On July 13, 2000, the United States Court of Appeals for the 7th Circuit held that a law firm could not receive compensation from a bankruptcy estate when its application for employment was denied. *In the Matter of: Milwaukee Engraving Company, Incorporated, Debtor, Appeal of: Ira Bodenstein, United States Trustee*, (99-3738, 7/13/00). When Milwaukee Engraving entered bankruptcy, it was represented by the law firm of Maier Mellnay & Kerkman, Ltd. (MMK). 11 U.S.C. section 327(a) permits a trustee or debtor in possession to "employ one or more attorneys...that do not hold or represent an interest adverse to the estate, and that are disinterested persons." The debtor filed an application seeking to use MMK's services in the bankruptcy proceeding. An accompanying affidavit revealed MMK represented Black Hawk Label, Inc, (under joint ownership with the debtor) which owed the debtor \$78,000. MMK represented Black Hawk in a liquidation effort and had first claims on proceeds of any sale before the balance was distributed to the debtor and Black Hawk's other creditors. The U.S. Trustee objected to MMK's employment. The bankruptcy court concluded that MMK's interest in the proceeds from the sale of Black Hawk's assets meant that it represented an interest adverse to the debtor. The application for the debtor to employ MMK was denied, on the grounds that the firm was not disinterested. The debtor engaged another law firm. MMK asked the bankruptcy to approve \$15,000 for professional services to the debtor between the commencement of the case and the approval of the new law firm. The bankruptcy judge noted that MMK provided legal services for a month between filing and the decision under Section 327, observed that these services were beneficial to the estate despite MMK's interest in Black Hawk, and concluded it would be inequitable to deny MMK compensation. The U.S. Trustee appealed, but the District Court for the Eastern District of Wisconsin affirmed the bankruptcy court's decision to grant MMK compensation. The UST appealed the district court's decision.

New Trustees Welcomed

Eight new trustees were recently appointed to the chapter 7 panel in Chicago. The new trustees in Cook County are R. Scott Alsterda, Barry Chatz, Horace Fox, Jr., Frances Gecker, David L. Salgado, Gregg E. Szilagyi and Jacqueline A. Walker. Thomas E. Springer was appointed to serve in Kane County.

Elaine Jensen, Tom Vaughn and Glenn B. Stearns are each completing their first year as chapter 13 standing trustees in the Chicago area. Gregory Schott is completing his first year as a panel trustee in Sterling, Illinois. We would like to wish them a happy first anniversary.

Region 11 Web Page

Thanks to Meg McGuire of the Chicago office, Region 11 now has it's own web page. Please take a look and feel free to email us back with your comments and suggestions. The address is

http://www.usdoj.gov/ust/r11/index_page.htm.

New Pacer Web Site

Currently 187 courts offer electronic public access services through the PACER Service Center. In response to the need for more efficient methods to retrieve case information from multiple jurisdictions, the Judiciary has created the U.S. Party/Case Index. This site contains a national index for U.S. district, bankruptcy and appellate courts and serves as a locator index for PACER. From this site, searches can be performed to determine whether or not a party is involved in federal litigation. Nationwide searches can be done by: name or SSN in the bankruptcy index; name or nature of suit in the civil index; defendant name in the criminal index; and party name in the appellate index. If more information is needed on a particular case, such as a docket, it can be retrieved by dialing into the particular court's PACER machine where the case is located. A PACER login is required to do these searches, along with pre-registration for any court that would need to be accessed. For registration and fee information, non-participating courts, and information on accessing the sites, please consult the PACER web site at

<http://pacer.psc.uscourts.gov/>.

Chapter 13 Plan Overpayments Returned to Surprised Debtors

Brendon DeMay, a summer intern at the Chicago office, finally saw results of a project which aimed to locate and contact past chapter 13 debtors due unclaimed funds deposited with the Clerk of the Bankruptcy Court. Normally the process of locating debtors to send these refunds is done by the standing chapter 13 trustee assigned to the case, which was James McCullough. Although Mr. McCullough's office repeatedly attempted to contact the debtors, correspondence was always returned as undeliverable with inaccurate addresses. This time-consuming task was abandoned when Mr. McCullough's office started streamlining in anticipation of his retirement, and all remaining unclaimed debtor refunds from June 1999 to April 2000 were sent to the Clerk's office.

With AUST Dean C. Harvalis' guidance, Mr. DeMay drafted affidavits and motions to avoid requiring the debtors from appearing in court. The project saved debtors the 20-30% finder fees charged by private firms locating unclaimed funds. By using online database Infotek, Mr. DeMay waded through dozens of old addresses and disconnected phone numbers to locate debtors. By late August, 14 debtors due refunds

from \$1,000 to \$6,000 completed the refund process designed by Mr. DeMay. Each debtor met with Mr. DeMay to review bankruptcy documents and sign their affidavit. Debtors receive refunds after filing of the motion and affidavits.

"Trying to locate all these people is extremely time consuming," Mr. DeMay noted, "but when I do find someone, I feel like Santa Claus when I get to tell them I have some money waiting for them if they'll just come down and sign a piece of paper. It's great to know I'm doing a community service by locating these people and helping them get their money for free rather than through an expensive private firm. I'm glad I can help these people who obviously need the money." Mr. DeMay, a Harvard undergraduate, plans to attend law school.

Recent Article Discusses Issues in Cases Converting to Chapter 7

Attorney Richard Friedman of the Chicago office recently wrote an article featured in the Summer 2000 issue of *NABTalk* entitled *Issues in Chapter 7 Asset Cases Converted From Chapters 11, 12 or 13*. The article points out "when a bankruptcy case converts from chapter 11, 12 or 13 to chapter 7, the case sometimes has assets for a trustee to administer." Six topics discussed should help trustees in determining: (1) assets in converted chapter 11 cases; or, in converted chapter 13 cases, applying Section 348(f); (2) the universe of claims entitled to a distribution in converted cases; (3) the proper amount of a claim in converted cases; (4) the priority of United States Trustee quarterly fees in converted cases; (5) trustee fees in converted cases; and (6) professional fees in converted cases. Schedules from chapter 11 cases converted to chapter 7 might not give the trustee a clear picture of the debtor's assets at the time of conversion. Section 348(f)(a)(A) identifies property of the estate in converted chapter 13 cases to be "...as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion." If a debtor converts a chapter 13 case in bad faith the property "in the converted case shall consist of the property of the estate as of the date of conversion" Section 348(f)(2) of the Code. There are unique circumstances in determining claims and the correct amounts in converted cases which are not present in a case filed as a chapter 7. For example, if the Debtor-in-Possession (DIP) report is filed after the bar date, DIP creditors might not be able to receive a dividend, unless the trustee takes remedial action. During chapter 11, 12 or 13 cases, debtors may have accumulated more debt than what was originally scheduled. If a plan was confirmed before the case converted to chapter 7, it is more difficult to determine the amount of the claim. Also problematic in converted cases is figuring out the priority of USTO fees, trustee fees and professional fees.

Pam Hillman Presented Attorney General Award

On July 28, 2000, Pamela S. Hillman, the Administrative Officer for Regions 10 and 11, was awarded the Attorney General's Award for Excellence in Administrative Support at a Washington, DC. ceremony. Pam was honored "for her outstanding accomplishments....She has served in an exceptional manner as principal advisor to two United States Trustees in all management and administrative matters... She was

successful in developing the concept of one administrative officer serving two regions; piloting the keying and electronic transmission of travel vouchers at the field office level; and implementing a new automated travel voucher program nationwide...Ms. Hillman's technical competence, initiative and willingness to accept new challenges have earned her the respect of her coworkers." Ira Bodenstein, and Edward B. Hopper II, Region 10's UST, also attended the annual awards ceremony. Regions 10 and 11 cover six offices in Illinois, Indiana and Wisconsin.

Identity Fraud

Region 11 now requires debtors to show proof of their SSN and a picture I.D. at §341 meetings. This policy was initiated, in part, to combat identity fraud and to ensure that erroneous numbers listed on petitions are corrected by requiring debtors to file amended petitions with the court. Region 11 was the first in the nation to implement this procedure region wide.

Identity fraud involves the unauthorized use of another person's name, address, SSN or other personal identifying information. Victims are usually unaware of the crime until false or erroneous information appears on a credit report, causing denial of a mortgage or credit card. Identity thieves, using the victim's name, open new credit card accounts to run up huge bills, establish phone or wireless services, open bank accounts and write bad checks, and file for bankruptcy under the victim's name.

It is estimated that thefts of SSNs have climbed to 500,000 annually. In one Chicago case, an alien filed for bankruptcy to discharge debts accumulated while using an illegally-obtained SSN. The debtor had purchased a SSN when he entered the country illegally. In a recent article on identity theft it was noted that a stolen SSN can provide documents for multiple people, all of whom might get jobs under the same assumed name. Authentic birth certificates could cost as much as \$2000 on the black market, according to immigration officials.

It can be expensive and time consuming for victims to rehabilitate their credit history. Until their good credit record is restored, victims find it difficult to obtain credit to purchase homes, cars, and to acquire credit cards.

In October 1998, the Identity Theft and Assumption Deterrence Act was passed which makes it a crime to unlawfully transfer or use another person's identification with the intention to commit a federal or state crime. Violations of the Act are investigated by federal law enforcement agencies including the FBI, the U.S. Secret Service, the U.S. Postal Inspection Service and Social Security Administration Office of Inspector General. The U.S. Attorney is responsible for the prosecution of identity theft. A conviction for identity theft carries a maximum penalty of 15 years imprisonment, a fine, and forfeiture of any personal property used or intended to be used in the commission of the crime.

The Federal Trade Commission (FTC) operates an identity theft hot line, and victims are encouraged to file a complaint with that agency. The FTC's Identity Theft Hotline number is 1-877-ID-THEFT (or 1-

877-438-4338). Complaints can also be filed on-line at www.consumer.gov/idtheft. In addition, the FTC and Social Security Administration can be contacted for information concerning identity theft.

When identity theft is made known to the USTO, appropriate criminal or civil remedies are pursued. If it appears a crime involving identity theft has been committed, the USTO refers cases to the U.S. Attorney's Office, and works closely with federal agents and prosecutors to investigate and develop the case. The USTO, where appropriate, may file complaints objecting to the debtor's discharge or motions asking the bankruptcy court to expunge the case from the record.

To protect yourself from identity theft, the FTC suggests that no personal information be given out over the phone, through the mail or over the Internet unless the consumer knows the individual or initiated contact with the individual. Identity thieves may pose as bank representatives, Internet service providers and government agencies to gain access to SSNs, financial account numbers and other personal information such as a mother's maiden name. Shred all mail that contains personal information such as pre-approved credit cards. Finally, try to limit the occasions you give out your social security number. Make sure that the requestor of your number really has a legitimate reason to ask for your number. Oftentimes, if you decline to provide the information, the requestor will still go forward with the transaction and not require you to disclose the information.

AUST Sandra Rasnak, who has participated in identity fraud conferences, seminars, task forces and prosecutions, should be contacted for identity fraud questions.

For more information about this newsletter, or for additional copies, please contact: Alfreda Baran, Bankruptcy Analyst, USTO, 227 West Monroe, Suite 3350, Chicago, Illinois 60606, (312) 886-5785, or email: alfreda.baran@usdoj.gov

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